

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

083823

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450 Alexandria, VA 22313-1450

Application Number

10/510,183

Filed

September 30, 2004

First Named Inventor

Johan RANSOUIN

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Art Unit

1795

Examiner

Asha J HALL

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

☒ I am an attorney or agent of record.

Registration number 28,703

/DJCushing/

Signature

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August 25, 2008

Date \_\_\_\_\_

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q83823

Johan RANSQUIN, et al.

Appln. No.: 10/510,183

Group Art Unit: 1795

Confirmation No.: 6804

Examiner: Asha J HALL

Filed: September 30, 2004

For: CONCENTRATION SOLAR BATTERY PROTECTED AGAINST HEATING

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated February 25, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

The present invention is an improvement in an arrangement of the type (shown in Fig. 1) having a photovoltaic cell 101 covered by a protection layer 102, and a reflecting concentrator 106 which reflects incident light toward the surface of the layer 102. The improvement according to the present invention, in its simplest form, is the addition of a filtering layer 206 to the reflecting concentrator.

The application includes 9 claims, of which only claim 1 is independent. Claims 1-5 and 7-9 are rejected for anticipation by Osborn et al. Claim 6 is rejected as unpatentable over Osborn et al in view of Leinkram. Claim 7 is also rejected as indefinite.

As to the indefiniteness rejection of claim 7, the only alleged basis for the rejection is that the word “unwanted” is a relative term which renders the claim indefinite. To the contrary, claim 1 explicitly defines “unwanted” radiation as radiation “that is not able to excite the photovoltaic cell.”<sup>1</sup> There is nothing relative about the term, and it is explicitly defined. While the definition given in claim 1 is clear and inescapable, the examiner ignores the last 10 words of claim 1 in the Advisory Action mailed July 15, 2008, where the examiner simply disagrees. There is no room for reasonable disagreement, no reasonable basis for this rejection, and it should be reversed.

As to the prior art rejections, Osborn fails to teach the invention defined in claim 1 for at least the reasons set forth in the Amendment filed December 5, 2007, beginning with the third full paragraph of page 4 and continuing over to the bottom of page 5. The examiner responded to those arguments in the final Office action mailed February 25, 2008, and further reasons for overturning the rejection of the examiner are given in the response filed June 25, 2008, beginning at the fourth full paragraph of page 2 and continuing to the bottom of page 4.

The examiner has attempted to justify his rejections in the Advisory Action, but the examiner cannot support the rejection without ignoring claim limitations. Claim 1 requires (1) a photovoltaic cell, (2) a transparent protection layer covering the photovoltaic cell, (3) a reflecting concentrator, (4) a filter covering the reflecting concentrator to eliminate from the luminous flux reflected by the concentrator most of the radiation that is not able to excite the photovoltaic cell.

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<sup>1</sup> It is noted that the examiner has not rejected claim 1 for indefiniteness.

It is clear from the comments in the Advisory Action that the examiner considers the fluid layer in Fig. 18 of Osborn to be the claimed filter for eliminating unwanted radiation. This is the filter described at page 311. The examiner has not been able to point to anything that corresponds to the claims transparent protection layer that covers the photovoltaic cell and is separate from the filter which covers the reflecting concentrator.

Further, claim 1 requires a reflecting concentrator. Osborn does not teach this. The examiner refers to the Fresnel lens as being a reflecting concentrator, but everyone of skill in the art knows that a Fresnel lens concentrates by transmission, not reflection. Undaunted by this, the examiner cites to an excerpt from the Handbook of Optics, takes it out of context and does not provide a complete copy of the relevant sections of the Handbook, and then argues that total internal reflection facets are an inherent feature of the Fresnel lens in Osborn. It is clearly not so, has been explained to the examiner, but the examiner is unable to respond other than to repeat the conclusory statement from the earlier Office action. There is clearly no prima facie case of anticipation presented by the examiner.

For the above reasons, reversal of the examiner is requested.

Respectfully submitted,

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